

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT, herein the "Agreement," is made and entered into as of the _____ day of _____, 2009, by and between the CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, A UTAH CORPORATION, herein the "Seller," and West Valley City, a municipal corporation of the State of Utah, herein the "Buyer."

RECITALS:

- A. The Seller owns a parcel of property located at approximately 6400 West and 4600 South, in West Valley City, Salt Lake County, State of Utah, herein the "Property." The Property is more particularly described and depicted on the attached Exhibit "A," which is incorporated herein. For purposes of this Agreement, the term "Property" shall include the Property purchased pursuant to the terms of this Agreement and all of the Seller's right, title, and interest in and to all leases, privileges, rights-of-way, easements, and appurtenances, and all other rights appurtenant to or connected with the beneficial use or enjoyment of the Property, including, without limitation, any of the Seller's right, title, and interest in and to immediately adjacent public streets, roads, alleys, or rights-of-way; all mineral rights; all surveys in the Seller's possession or control relating to the Property; and all soils and other geological or environmental studies, investigations, and reports, engineering studies and reports, wetlands information and reports, and landscaping plans and specifications in the Seller's possession or control relating to the Property.
- B. The Seller desires to sell the Property to the Buyer, and the Buyer desires to purchase the Property from the Seller, upon the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the covenants and promises contained in this Agreement, the Buyer and the Seller agree as follows:

AGREEMENT:

- 1. **Purchase of Property.** Subject to the terms and conditions of this Agreement, the Seller agrees to sell the Property to the Buyer, and the Buyer agrees to purchase the Property from the Seller. The Seller hereby agrees to effect this purchase and sale transaction through the use of a Warranty Deed, subject only to those title matters which are acceptable to the Buyer.
- 2. **Purchase Price.**
 - a. Purchase Price. The Purchase Price shall be \$10,000.00, payable in United States dollars.

3. **Conditions to Closing.** The Closing shall not occur until each one of the following conditions precedent has been satisfied, in the Buyer's sole discretion, prior to the Closing; provided, however, that the Buyer is entitled to waive any of the conditions in writing.
- a. Approval of Title. At the Closing, the title to the Property shall be in a condition that is acceptable to the Buyer in its sole discretion. At the Buyer's written request, the Seller shall provide such documentation, releases, or reconveyances as may be necessary to provide a title acceptable to the Buyer.
 - b. Water Rights. The parties agree that all water rights, water shares, or stock owned by the Seller and associated with the property, if any, shall be conveyed to the Buyer.
 - c. Mineral Rights. The sale includes all mineral rights to the Property.
4. **Closing.** The term "Closing" is used in this Agreement to mean the time at which the title company records the Deed in the office of the Salt Lake County Recorder. The Closing shall occur on or before August 15, 2009, unless the Buyer and the Seller mutually agree in writing to close the transaction on an alternate date.
- a. Buyer Deliveries. On or before the Closing Date, the Buyer shall deliver payment of the balance of the cash Purchase Price.
 - b. Seller Deliveries. On or before the Closing Date, the Seller shall deliver the following to the Buyer:
 - (i) The duly executed and acknowledged Warranty Deed in favor of the Buyer, conveying fee title to the Property, free and clear of all liens and encumbrances which are unacceptable to the Buyer.
 - (ii) The Seller shall not pay closing costs, including title insurance, escrow or recording costs.
 - c. Buyer's Costs. The Buyer shall pay the following items at or before the Closing:
 - (i) The Purchase Price.
 - (ii) Closing, escrow and recording costs.
 - (iii) The cost of title insurance.
 - d. Failure to Deliver.
 - (i) If the Buyer fails or refuses to deliver the required funds at the Closing, the Seller may, at the Seller's option, extend the time for the Closing, or

may commence an action for damages, or bring an action to compel specific performance by the Buyer. All costs shall be borne by the party incurring the cost. The Seller expressly agrees that the action for damages, or action for specific performance pursuant to this section shall be the Seller's sole remedies for the Buyer's failure to perform or deliver at the Closing.

- (ii) If the Seller fails or refuses to deliver a valid and acceptable Deed, or such other documents as may be necessary for the Seller to perform at the Closing, the Buyer may, at the Buyer's option, extend the time for the Closing, or may take any legal action necessary to enforce the Buyer's rights, to be made whole for damages caused by the Seller's default, and/or to compel specific performance by the Seller.

e. Prorations.

- (i) All water, sewer, and utility charges for the Property.
- (ii) Seller is paying the prorated 2009 General Property Taxes through the date of Closing, however, if for any reason the Salt Lake County Treasurer determines there are still taxes due on the property it is the responsibility of the Seller to pay said taxes since the Buyer is tax exempt.
- (iii) All levied or pending assessments affecting the Property.

The Seller shall furnish to the Buyer sufficient information to enable the Buyer and the Seller to make the prorations required under this Agreement.

5. **Seller's Representations, Warranties and Covenants.**

- a. The parties expressly understand that each of the following representations, warranties, and covenants made herein is material, and that the Buyer is relying upon each of such representations, warranties, and covenants as true and correct as of the date on which the parties executed this Agreement and as of the Closing Date, as though such representations, warranties and covenants had been made on each of such dates. As a condition to the Closing, the Seller hereby makes the following representations and warranties, in addition to any others made in this Agreement:

At the Closing, the Seller will be the sole owner of the Property and will hold title to the Property in fee simple, free and clear of all encumbrances, except for those found acceptable by the Buyer.

- (i) The Seller warrants that there is no pending claim, suit, or litigation that involves the Property.

- (ii) At the Closing, there will be no unpaid bills or claims in connection with the Property.
- (iii) Between the date of this Agreement and the Closing date, the Seller, without the Buyer's prior written consent, shall not subject any right, title, or interest in the Property to any mortgage, pledge, lien, or other encumbrance.
- (v) This Agreement and the consummation of this transaction do not and will not contravene any provision of any judgment, order, decree, writ, or injunction, and will not result in a breach of, constitute a default under, or require consent pursuant to any credit agreement, lease, indenture, mortgage, deed of trust, purchase agreement, guaranty, or other instrument to which any of the persons or entities comprising the Seller are presently a party or by which any of the same or their respective assets are presently bound or affected.
- (vi) All documents delivered to the Buyer by the Seller pursuant to this Agreement are true, correct, and complete originals or accurate copies of originals.

To the actual knowledge of the Seller no hazardous waste or toxic substances have been stored on, released into, generated on, or deposited upon the Property or into any water systems on or below the surface of the Property, and the Property complies with all local, state, and federal hazardous waste laws, rules, and regulations.

The Seller hereby agrees and covenants that the Purchase Price being paid by the Buyer constitutes full and adequate consideration for the Property and rights being acquired by the Buyer.

These representations, warranties, and covenants of the Seller shall survive the Closing on the Property.

6. **Brokerage Commissions.** The Buyer is represented by Broker Dee Hansen of the DRH Realty, LLC. The Seller is not represented by a broker or real estate agent in this transaction. The Buyer shall be solely responsible for the payment of the commission to Dee Hansen in this transaction. Further, the Seller hereby indemnifies the Buyer from and against all claims, actions, damages, or costs, including reasonable attorney's fees and court costs, in connection with any claimed brokerage or real estate commissions with respect to the transaction contemplated by this Agreement that arise from or through any agent or broker consulted or used by the Seller. The Buyer hereby indemnifies the Seller from and against all claims, actions, damages, or costs, including reasonable attorney's fees and court costs, in connection with any claimed brokerage or real estate commissions with respect to the transaction contemplated by this Agreement that arise from or through any agent or broker consulted or used by the Buyer.

7. **Additional Acts and Consideration.** Both the Buyer and the Seller agree to execute all other documents and to do such other acts as may be reasonably necessary or proper in order to consummate the transaction contemplated by this Agreement.
8. **Notices.** All notices, requests, demands, and other communications required under this Agreement, except for normal, daily business communications, shall be in writing. Such written communication shall be effective upon personal delivery to any party or upon being sent by overnight mail service; by telecopy (with verbal confirmation of receipt); or by certified mail, return receipt requested, postage prepaid, and addressed to the respective parties as follows:

If to the Seller: Matthew K Jarvis
Real Estate Project Manager
Real Estate Services Division
Physical Facilities Department
Corporation of the Presiding Bishop of the Church
of Jesus Christ of Latter-day Saints
50 E. North Temple St. 12th Floor
Salt Lake City, UT 84150-6320

If to the Buyer: Kevin Astill
Parks and Recreation Director
3600 Constitution Boulevard
West Valley City, Utah 84119
Telephone: 801-955-4007
Facsimile: 801-

With a copy to: J. Richard Catten
City Attorney
West Valley City
3600 Constitution Boulevard
West Valley City, Utah 84119
Telephone: 801-963-3271
Facsimile: 801-963-3366

Either party may change its address for purposes of this Agreement by giving written notice to the other party.

9. **Attorney's Fees.** Should it become necessary for either party to enforce its rights under this Agreement, whether in suit or otherwise, the prevailing party shall be entitled to recover from the unsuccessful party reasonable attorney's fees and costs, in addition to any other relief to which the party attempting to enforce its rights hereunder may be entitled.
10. **Modification.** Neither party to this Agreement may amend or modify this Agreement, except in a writing executed by the parties hereto.

11. **Risk of Loss.** If, prior to the Closing Date, the Property or any portion thereof is damaged by fire, acts of God, or other casualty or cause, the Buyer shall have the right to terminate this Agreement and the Earnest Money shall be refunded to Buyer.
12. **Entire Agreement.** The parties expressly agree that this Agreement and the exhibits attached hereto constitute the full and complete understanding and agreement of the parties, and that this Agreement supersedes all prior understandings, agreements, and conversations between the parties, whether oral or written. Any prior negotiations, correspondence, or understandings related to the subject matter of this Agreement shall be deemed to be merged into this Agreement and the attached exhibits.
13. **Severability.** If any term or provision of this Agreement is invalid or unenforceable for any reason whatever, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
14. **Captions and Headings.** The section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.
15. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original for all purposes, but all of which shall constitute but one and the same instrument.
16. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Utah.
17. **Assignability.** This Agreement shall bind and inure to the benefit of the assignees, heirs, and successors-in-interest of the Buyer and the Seller. Neither the Buyer nor the Seller shall assign its rights or delegate its obligations hereunder without the prior written consent of the other.
18. **Time of the Essence.** Time is of the essence with respect to the performance of the parties under this Agreement.
19. **Waiver.** A waiver by either party of any provision of this Agreement shall not operate or be construed as a waiver of any other subsequent breach.

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement as of the day and year first above written.

Mayor

ATTEST:

City Recorder

SELLER:

State of _____)
County of _____)

On this _____ day of _____, 2009, personally appeared before me _____ *[name of person(s)]*, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who affirmed that he/she is the _____ *[title]*, of the CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a corporation, and said document was signed by him/her in behalf of said corporation by authority of its bylaws or of a Resolution of its Board of Directors, and he/she acknowledged to me that said corporation executed the same.

Notary Public